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MATTERS RELATING TO COMMITMENTS

CRITERIA FOR JOINT IMPLEMENTATION

Note by the secretariat

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I. INTRODUCTION

A. Mandate

1. The work plan adopted by the Committee at its sixth session includes task A.2 "Criteria for joint implementation" (A/AC.237/24, para. 44), which was assigned to Working Group I. At its seventh session, the Committee decided that Working Group I would take up this task at the eighth session. The Committee also indicated that, in the discussion on this item, available material should be reviewed and decisions taken on further work (A/AC.237/31, para. 49). The Committee further decided that Working Group I would consider, as appropriate, the roles of the subsidiary bodies established by the Convention (A/AC.237/31, para. 50).

B. Scope of the note

2. This note is intended to provide the basis for an initial discussion regarding criteria for joint implementation activities, as provided for by Article 4.2 of the Convention, and to encourage delegations to share their views and experiences on the subject. It outlines the concept of joint implementation, as derived from the provisions of the Convention, and suggests possible implications that might need further consideration, as well as considerations on criteria that might help to orient the discussion in the Committee.

C. Possible action by the Committee

3. The Convention calls upon the Conference of the Parties (COP) to adopt criteria, at its first session (COP I), for joint implementation activities (Article 4.2(d)). The Committee may therefore wish to aim at drawing up criteria for consideration by COP I. After a first discussion at its eighth session, the Committee may wish to provide for the preparation of draft criteria for its consideration at its ninth session. The timely availability of criteria proposed by the Committee would provide useful guidance to Parties that are considering joint implementation activities, as well as to interested financial institutions and other organizations. Such guidance would be particularly useful to those Parties included in Annex I of the Convention that want to include information on joint implementation policies and measures in their first national communications under Article 12.

II. CONVENTION PROVISIONS RELATING TO JOINT IMPLEMENTATION

A. The concept of joint implementation

4. The Convention envisages that "efforts to address climate change may be carried out cooperatively by interested Parties" (Article 3.3). More specifically, joint implementation is provided for in Article 4.2(a), which refers to commitments of developed country Parties and other Parties included in Annex I (hereafter, "Annex I Parties") and reads, in part: "each of these Parties shall adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. ... These Parties may implement such policies and measures jointly with other Parties and may assist other Parties in contributing to the

achievement of the objective of the Convention and, in particular, that of this subparagraph" (emphasis added). Article 4.2(d) provides that COP I "shall take decisions regarding criteria for joint implementation as indicated in [Article 4.2(a)]."

5. From the footnote to Article 4.2(a), it appears that joint action decided upon by a regional economic integration organization would be considered as equivalent to national action, and thus not be subject to the criteria for joint implementation which are to be decided upon by COP I. However, bilateral or multilateral actions by Parties that are members of a regional economic integration organization would seem to be within the scope of such criteria.

6. Article 4.2(b) commits each Annex I Party to communicate "detailed information on its policies and measures referred to in [Article 4.2(a)] as well as on its resulting projected anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol for the time period referred to in [Article 4.2(a)] [that is, to the end of the present decade], with the aim of returning individually or jointly to their 1990 levels these anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol" (clarification and emphasis added).

7. The words "individually or jointly" in Article 4.2(b) have been interpreted in this note as referring to the Annex I Parties, thus allowing for joint action by such Parties aimed at returning emissions to 1990 levels. However, these words may also be read as applying to "emissions". Such a reading would constitute a reference to the so-called "comprehensive approach", whereby emission reductions would be assessed for the whole package of greenhouse gases. Since the latter reading seems to be inconsistent with the intent of the negotiators in formulating this particular sub-paragraph, it is not further pursued in this note. The Committee may wish to confirm the interpretation adopted in this note.

B. Different partnerships in joint implementation

8. Different types of partnerships may arise from the pursuit of joint implementation, consistent with the provisions of the Convention. One example could be if a Party included in Annex II of the Convention (hereafter, "Annex II Party") were to provide financial resources bilaterally to an Annex I Party or to a developing country Party for an activity in the latter country that would lead to an avoidance of emissions or to an increase in removals of greenhouse gases. Another such example could be if a private company in an Annex II Party were to invest in a private undertaking in an Annex I Party or a developing country Party with the same objective as in the previous example and with both Parties endorsing this investment.

(a) Joint implementation between Annex I Parties

9. Joint implementation of commitments between Parties included in Annex I is permitted by Article 4.2(a) and 4.2(b). An issue that arises from the latter subparagraph concerns the reference year for assessing the limitation of emissions. Article 4.6 provides for the COP to allow a certain degree of flexibility to those Annex I Parties undergoing the transition to a market economy, including with regard to the reference year. There may be a need for the criteria to be adopted by the COP to distinguish between joint implementation among two or more Annex I

Parties which have accepted 1990 as a reference year and joint implementation involving one or more Annex I Parties which have adopted a different reference year.

(b) Joint implementation between Annex I Parties and other Parties

10. With respect to the possibility of joint implementation between Annex I Parties and other Parties, it may be noted that Article 4.2(a) refers to the joint implementation of "policies and measures". Since all Parties are required by Article 4.1(b) to "implement ... programmes containing measures to mitigate climate change", such measures could, in principle, be implemented jointly between an Annex I Party and any other Party or Parties, subject to the criteria to be decided upon by the COP. However, as Article 4.2(b) contains a specific commitment of Annex I Parties to return their emissions individually or jointly to 1990 levels, the question arises whether joint implementation between Annex I Parties and other Parties should lead to reductions of emissions or increases in removals beyond that commitment. The Committee may wish to give specific attention to this question.

C. Joint implementation and financial assistance

11. Joint implementation activities will give rise to flows of financial resources between the Parties involved, possibly including private investment. However, it is important to distinguish between, on the one hand, joint implementation of measures or commitments, as provided for in Article 4.2(a) and (b), and on the other hand, various kinds of financial and/or technical assistance that may be provided by Annex I Parties to other Parties (as noted by the phrase "may assist other Parties" in Article 4.2(a)) and that Annex II Parties are explicitly committed to provide by Articles 4.3, 4.4 and 4.5. In particular, the financial resources that are covered by Article 4.3, and are to be provided in accordance with Article 11, would appear to be distinct from any public or private financial resource flows for joint implementation activities. In other words, it seems appropriate to conclude that there should be no double counting of financial flows as both financial assistance and joint implementation.

12. A summary table illustrating the distinctions between different types of actions under the Convention is annexed to this note. The table focuses on actions by Annex II Parties, since it may be assumed that these will be the major sources of financial and other resources for joint implementation activities.

III. CONSIDERATIONS RELATING TO CRITERIA

13. The considerations in the preceding section provide a basis for criteria of eligibility under the Convention for joint implementation activities. Additional criteria might be set at the project level, focusing on the relation between a specific activity and the objective, principles and commitments of the Convention. Furthermore, criteria would be needed on accounting and communication of results. The following sections provide some considerations related to these different types of criteria.

A. Criteria at the project level

14. Many factors will need to be considered in evaluating joint implementation activities. Some of these are clearly within the purview of the COP and would be the subject of the criteria referred to in Article 4.2(d). Others seem to be the prerogative of the Parties involved in specific joint implementation activities or projects. It will take time to develop these criteria fully, and the decision process should take into account experience gained by various Parties in seeking opportunities to cooperate in pursuing the objective of the Convention. Some countries are already exploring such opportunities and may be able to share their experience with the Committee. The Committee may wish to give specific attention to the question of which criteria at the project level should be subject to decision by the COP, and which should be left to the discretion of the Parties involved.

15. The Committee may wish to consider whether points such as the following might be elaborated upon for inclusion in a list of draft criteria for consideration by the COP:

(a) How to assess results from joint implementation activities involving two or more Annex I Parties, when not all have chosen 1990 as the reference year for emissions;

(b) The date of initiation of a joint implementation activity (for example, prior to or subsequent to the adoption of the Convention), as a criterion to determine whether the activity might be considered as a response by the Parties involved to the provisions of the Convention;

(c) The need to consider the full cycle of processes involved in a project, with the aim of ensuring that it does not merely result in the displacement of emissions from one project to another, or from the Party where the project is located to another country (whether Party or non-Party);

(d) The contribution of the project to other specific commitments and aims of the Convention, such as strengthening endogenous capacities, consistent with Article 4.5.

16. These examples are illustrative. Full development of a list of possible criteria for consideration by COP I should be based on discussion and input by the delegations to the Committee.

17. In addition, the Parties involved in a joint implementation project will presumably wish to examine a number of additional factors bilaterally, for example:

- national priorities of the host Party, including the relationship of the project to national sustainable development aims, such as aims in the sectors of energy, transport, industry, agriculture, forestry, waste management, trade, infrastructure and capacity-building;

- cost-effectiveness of the project as compared with alternative investments by the investing Party;

- cost per tonne of carbon-equivalent emissions reduced or captured relative to alternatives, particularly in the investing Party.

18. Consideration of factors such as these could be left to the collaborating Parties, either individually or in cooperation with each other. Consequently, the COP would not adopt criteria relating to such factors but may invite the Parties concerned to include such considerations in their national communications on a voluntary basis.

19. The Parties involved in a joint implementation activity should consider how it would relate to other social, economic and environmental goals, consistent with Article 4.1(f). The COP may wish to consider whether any criteria developed in accordance with Article 4.2(d) should address this question or whether it should be left to the individual Parties involved.

B. Criteria related to methodologies and accounting procedures

20. It may be assumed that in establishing criteria for joint implementation and reviewing the results of such efforts as part of its broader review of implementation of the Convention, the COP would seek to ensure that all baseline emissions (in the case of Annex I Parties) and all emissions reductions described in the Parties' communications are calculated according to consistent methodologies. The methodologies used to calculate the results of joint implementation measures outside a Party's territory should be the same as those used for national measures within its territory. Such methodologies are to be agreed by COP I, in accordance with Article 4.2(c) and Article 7.2(d). It is anticipated that these methodologies will evolve over time and be reviewed and updated regularly by the COP. (Document A/AC.237/34 addresses the establishment of methodologies for the calculation of emissions and removals in relation to the Convention; document A/AC.237/36 relates to the broader review process.)

21. Parties cooperating in a joint implementation activity may wish to designate one part of the total emissions limitation to be attributable to one of the Parties and the remainder to the other Party. However, such a division of the total limitation does not appear to be required explicitly by the language of the Convention and would be at the discretion of the Parties involved. Any indication of a "credit" or "attribution" to one or more of the Parties should not be interpreted as creating any commitments beyond those currently contained in the Convention.

22. The COP may want to prescribe a limit on the time span for calculating emission limitations or increases of removals arising from a joint implementation activity. Otherwise, the ability of the host Party to claim future credit for emission limitations or removals might be unduly curtailed.

C. Communication of results of joint implementation activities

23. As noted in section II, Article 4.2(b) calls on each of the developed country Parties included in Annex I to communicate detailed information on its policies and measures referred to in Article 4.2(a), as well as on its resulting projected emissions by sources and removals by sinks of greenhouse gases. The time period for the projections would be from 1990 until the end of the decade (that is, the year 2000). Article 12.2(a) and (b) essentially repeats the obligation to communicate this information.

24. Article 12.8 states that "any group of Parties may ... make a joint communication in fulfilment of their obligation under [Article 12], provided that such a communication includes information on the fulfilment by each of these Parties of its individual obligations under the Convention." Such communications will be subject to guidelines adopted by the COP and to prior notification to the COP. Thus, Parties cooperating in joint implementation may communicate the results of such cooperation either individually or jointly, subject to guidance provided by the COP.

25. Article 4.2(b) commits each Annex I Party to communicate information on policies and measures adopted according to Article 4.2(a). The latter refers to each Annex I Party limiting its emissions and protecting and enhancing its greenhouse gas sinks and reservoirs. It may therefore be assumed that each Annex I Party will communicate information on those policies and measures applied regarding emissions, sinks and reservoirs within its territory. The same Article 4.2(b) also refers to its resulting projected anthropogenic emissions by sources and removals by sinks" and to the aim of returning individually or jointly to their 1990 levels "these anthropogenic emissions" (emphasis added). Therefore, the communication on the projected and resulting emissions to the year 2000 would also appear to be for emissions originating in the Party's own territory.

26. The effects of policies and measures implemented jointly with another Party would presumably be described in a separate part of the Annex I Party's communication. The total contribution of the latter Party to the global effort referred to in Article 4.2(a) regarding the Convention objective of stabilizing atmospheric concentrations of greenhouse gases would be the sum of all results of its efforts, within and outside its territory, to limit emissions and protect and enhance sinks and reservoirs. The Party's contributions regarding financial and technical assistance, cooperation on science, observation and monitoring, research, and public education and the like could also be listed, but separately, and would complete the description of the Party's total effort to respond to climate change.

27. For completeness, and to avoid any possibility of double counting of emissions limitations, each Party involved in a joint implementation project may have to describe the results of the project in a separate section of its communication. The COP, or the Subsidiary Body for Implementation on its behalf, could then compare what has been communicated by each Party involved, to assure consistency. This would imply that a developing country Party that was not yet required to communicate under Article 12.5 would do so on this aspect alone.

IV. PROCESS AND INSTITUTIONS

28. As Parties begin to seek opportunities to cooperate with other Parties in joint implementation projects, there may be a need for certain arrangements and procedures under the auspices of the Convention, for purposes of both consistency and efficiency. Such arrangements would need to take into account the possible role of private investors in joint implementation projects. The institutional framework for joint implementation should be consistent with the provisions of the Convention, and with any agreed distinction between joint implementation and other forms of implementation, including the implementation of financial commitments.

29. Initially, some kind of "clearing house" for information about possible projects could be useful in helping potential partners identify opportunities for joint implementation. This should be coordinated with relevant activities under the COP including those of the subsidiary bodies. Consistent methodologies agreed by the COP should be the basis for project evaluation, as well as for communication of the results of the joint implementation.

Annex

Possible actions by Annex II Parties involving other Parties[a]

	Partners		
	Other Annex II Parties	Other Annex I Parties	Developing country Parties
Type of action			
A. Policies and measures (Art. 4.1, Art. 4.2(a) Art. 4.2(b))			
A.1 National	-	-	-
A.2 REIO*	Yes	-	-
B. Joint implementation			
B.1 Art. 4.2(a)	Yes	Yes	Yes
B.2 Art. 4.2(b)	Yes	Yes	-
C. Finance and technology transfer			
C.1 (Art. 4.3)	-	-	Yes
C.2 (Art. 4.4)	-	-	Yes
C.3 (Art. 4.5)	-	Yes	Yes
D. Communication of information (Art. 12)	Yes	Yes	Yes

[a]This is an illustrative table, not intended to imply a judgement on the nature and extent of different financial commitments under the Convention.

"Yes" indicates that the item is applicable.

A hyphen (-) indicates that the item is not applicable.

*REIO regional economic integration organization

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